

AMENDED IN SENATE MAY 5, 2005
AMENDED IN SENATE APRIL 27, 2005

SENATE BILL

No. 760

Introduced by Senator Lowenthal

February 22, 2005

An act to add Section 1745 to the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as amended, Lowenthal. Ports: congestion relief: security enhancement: environmental mitigation: user fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would impose on each shipping container processed in the Port of Los Angeles or the Port of Long Beach a fee of \$30 per twenty-foot equivalent unit (TEU), payable by the marine terminal operator processing the container to the port where the marine terminal is located.

The bill would require each port to retain $\frac{1}{3}$ of the funds derived from imposition of the fee and transmit the remaining $\frac{2}{3}$ in the amount of $\frac{1}{2}$ to the California Transportation Commission and $\frac{1}{2}$ to the South Coast Air Quality Management District.

The bill would require each port to use the funds retained as specified above exclusively for the purpose of funding projects to improve the security of the port, including the screening of shipping containers, and to fund the administrative costs for implementing this program.

The bill would require each port, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the Office of Homeland Security, and other state and federal agencies that may assist the ports in determining which

projects are best suited to protecting the ports and their surrounding communities.

The bill would require the commission to use the funds received under these provisions to alleviate congestion on the highways serving the ports by improving the rail system that transports shipments from and to those ports and the ondock rail facilities at those ports.

The bill would prohibit the commission from using the funds to construct, maintain, or improve highways.

The bill would require the commission to consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura in the process for selecting projects for funding.

The bill would require the South Coast Air Quality Management District to use the funds received under these provisions to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, ocean-going vessels, and rail, and for the administration of this program.

The bill would limit projects funded by the district to reducing ~~emission~~ *emissions* from sources located at the ports, to include replacing ~~highly-polluting~~ *high-polluting* engines with cleaner engines and retiring the engines that have been replaced, assisting the ports with implementing or enhancing technologies that reduce emissions from vessels while docked at marine terminals, and other projects that the district determines reduce emissions from sources located at the ports.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports and the district.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1745 is added to the Harbors and
- 2 Navigation Code, to read:

1 1745. (a) The Legislature hereby finds and declares all of the
2 following:

3 (1) There is a need to mitigate the enormous burden imposed
4 on the highway transportation system serving the Ports of Los
5 Angeles and Long Beach by the overland movement of cargo
6 shipped from and to those ports.

7 (2) Due to unanticipated growth at the ports and new federal
8 security requirements that are applicable to those ports, it is
9 necessary to enhance the security of the ports.

10 (3) The operation of the ports causes environmental pollution
11 that requires mitigation.

12 (4) Accordingly, it is the intent of the Legislature to alleviate
13 these burdens by imposing a fee on shipping containers
14 processed through those ports and using the funds derived
15 therefrom to do all of the following:

16 (A) Improve the rail system that serves as an alternative to
17 shipping via the highway by commercial vehicle, including, but
18 not limited to, the ondock rail facilities at those ports.

19 (B) Enhance the security at the ports.

20 (C) Mitigate the environmental pollution caused by port
21 operations.

22 (b) For the purposes of this section, the following terms have
23 the following meanings, unless the context clearly requires
24 otherwise:

25 (1) “Marine terminal” means a facility that meets all of the
26 following criteria:

27 (A) Is located on a bay or harbor.

28 (B) Is primarily used for loading containerized cargo onto, or
29 unloading that cargo from, an ocean-going vessel.

30 (C) Contains a pier, wharf, slip, berth, or quay, or any
31 combination of those.

32 ~~(3)~~

33 (2) “Ocean-going vessel” means a self-propelled, waterborne
34 vessel that is constructed or adapted for the carriage of
35 containerized cargo on the open sea.

36 (3) “Operator” means a person or entity that owns, has an
37 ownership interest in, leases, rents, operates, participates in the
38 operation of, or uses a marine terminal. “Operator” does not
39 include an entity that owns the land underlying the facility or

1 owns the facility itself, if the entity is not involved in the
2 operation of the facility.

3 (c) There is hereby imposed on each shipping container
4 processed in the Port of Los Angeles or the Port of Long Beach a
5 fee of thirty dollars (\$30) per twenty-foot equivalent unit (TEU),
6 payable by the marine terminal operator processing the container
7 to the port where the marine terminal is located.

8 (d) The Port of Los Angeles and the Port of Long Beach shall
9 retain one-third of the funds received under subdivision ~~(b)~~ (c)
10 and shall transmit the remaining two-thirds on a quarterly basis
11 as follows:

12 (1) One-half to the California Transportation Commission.

13 (2) One-half to the South Coast Air Quality Management
14 District.

15 (e) (1) The ports shall use the funds retained under subdivision
16 (d) exclusively for the purpose of funding projects to improve the
17 security of the ports, including, but not limited to, the screening
18 of shipping containers, and to fund the administrative costs for
19 implementing this program.

20 (2) In selecting projects for funding under this subdivision, the
21 ports shall consult with the United States Coast Guard, the
22 federal Department of Homeland Security, the Office of
23 Homeland Security, and other state and federal agencies that may
24 assist the ports in determining which projects are best suited to
25 protecting the ports and their surrounding communities.

26 (f) (1) The California Transportation Commission shall use
27 the funds received under paragraph (1) of subdivision (d) to
28 alleviate congestion on the highways serving the Ports of Los
29 Angeles and Long Beach by improving the rail system that
30 transports shipments from and to those ports and the ondock rail
31 facilities at those ports.

32 (2) The funds received by the commission shall not be used to
33 construct, maintain, or improve highways.

34 (3) In the process for selecting projects for funding under this
35 subdivision, the commission shall consult with the transportation
36 commissions for the Counties of Los Angeles, Orange, Riverside,
37 San Bernardino, and Ventura.

38 (4) Projects that may be funded under this subdivision include,
39 but are not limited to, all of the following:

40 (A) Rail grade separations to relieve highway congestion.

1 (B) Expansion of ondock rail facilities.

2 (C) Other projects that facilitate the movement of cargo by rail
3 to alleviate congestion on highways serving the ports.

4 (g) (1) The South Coast Air Quality Management District
5 shall use the funds received under paragraph (2) of subdivision
6 (d) to mitigate environmental pollution caused by the movement
7 of cargo to and from the ports via commercial motor vehicles,
8 ocean-going vessels, and rail, and to fund the administrative costs
9 for implementing this program.

10 (2) Projects funded by the district under this subdivision shall
11 be limited to reducing ~~emission~~ *emissions* from sources located at
12 the ports and may include, but need not be limited to, all of the
13 following:

14 (A) Replacing high-polluting engines with cleaner engines and
15 retiring the engines that have been replaced.

16 (B) Assisting the ports with implementing or enhancing
17 technologies that reduce emissions from vessels while docked at
18 marine terminals.

19 (C) Other projects that the district determines reduce
20 emissions from sources located at the ports.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of
26 Section 17556 of the Government Code.